



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Friday, the Twenty Fourth day of March Two Thousand and Twenty
Three

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PRESENT

The Hon`ble Mr.Justice R.SURESH KUMAR
and
The Hon`ble Mr.Justice K.K. RAMAKRISHNAN

CRL MP(MD) No.4806 of 2023
in
CRL A(MD) No.586 of 2022

OTTAKULATHAN @ KANDHASAMY

... Petitioner / Appellant /
Accused No.10

Vs

1 THE DEPUTY SUPERINTENDENT OF POLICE,
MANAMADURAI SUB DIVISION,
SIVAGANGAI DISTRICT.

2 THE STATE THROUGH
THE INSPECTOR OF POLICE
PALAYANOOR POLICE STATION,
SIVAGANGAI DISTRICT.
IN CRIME NO.32/2018.

... Respondents 1 & 2 /
Respondents / Complainant

3 MAHESWARAN

... 3rd Respondent /
Defacto Complainant

4 DEIVENDRAN

5 SUKUMARAN

6 MALAISAMY

... Respondents 4 to 6 / Victims

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to Suspend the sentence passed in Spl SC No.65/2018 dt.05.08.2022 on the file of the Special Court for Exclusive Trial of Cases under SC/ST (POA) Act, 1989, Sivagangai and consequently enlarge the petitioner on interim bail for a period of two days on 23.03.2023 and 24.03.2023 to perform the first year death 'Thevasam' for his son by name Akkinisamy in the interest of justice pending disposal of the suspension of sentence petition in CRL MP(MD) No.4806 of 2022 in Crl. A(MD) No.586 of 2022.

<https://www.hc.in.gov/judis>



Prayer in CRL MP(MD). 11626/ 2022 :

To Suspend the Sentence of Imprisonment imposed by the Learned Special Court for Exclusive Trial of Cases under SC/ST(POA) Act,1989,Sivagangai in Special SC.No.65 of 2018 by the Judgment dt.5.8.2022 and enlarge the Petitioner/Appellant on bail.

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Prayer in CRL A(MD) No.586 of 2022:

To call for the records and set aside the order of conviction and sentence passed in Special S.C.No.65 of 2018 dated 05.08.2022 on the file of the Special Court for Exclusive Trial of Cases Under SC/ST (POA) Act, 1989, Sivagangai and allow the appeal and acquit the Appellants/Accused.

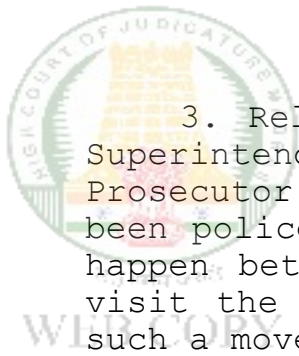
Order : This petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.ANDIRAJ P, Advocate for the petitioner and of Mr.E.Antony SAHAYA PRABAHAR, Additional Public Prosecutor on behalf of the Respondents No.1 & 2 the court made the following order:-

(Order of the Court was made by R.SURESH KUMAR,J.)

This petition has been filed seeking interim suspension in respect of the petitioner, who has been convicted in Spl.S.C.No.65/2018 on the file of the Special Court for Exclusive Trial of Cases under SC/ST (Prevention of Atrocities), Act, 1989 at Sivagangai on 05.08.2022.

2. Heard the learned counsel for the petitioner, who would submit that the first death anniversary of the son of the convict is to be observed on 25.03.2023 and therefore, in order to have that ceremony to be performed, the one day interim suspension, ie., bail is required for the convict, who is lodged in Central Prison, Madurai and for that purpose only this petition has been moved. However, the learned Additional Public Prosecutor has produced the following written instructions given by the Deputy Superintendent of Police, Manamadurai, Sivagangai District, where among other things he has stated the following:

“அவர்களில் 10 வது எதிரி திரு.ஓட்டகுளத்தான் என்ற கந்தசாமி த/பெ/கருப்பையா ஆவரங்காடு என்பவரின் மனைவி திருமதி.அழகு பாண்டியம்மாள் என்பவர் தனது மகன் அக்கினிசாமி என்பவர் இறந்த முதல் வருட நினைவு நாளுக்கு. தனது கணவர் ஓட்டகுளத்தான் என்ற கந்தசாமிக்கு 23/03/2023 மற்றும் 24/03/2023 ஆகிய இரண்டு நாட்கள் பரோல் விடுப்பு வழங்க கோரி பார்வையில் கண்ட நம்பர் படி மனுதாக்கல் செய்துள்ளார். கச்சந்தம் கிராமத்தில் நடைபெற்ற கொலை சம்பவத்திற்கு பின்பு ஆதிதிராவிடர் மற்றும் அகமுடையார் இனத்தவர்களிடையே அசாதாரண சூழ்நிலை நிலவி வருகிறது. அக்கிராமம் மற்றும் அதை சுற்றியுள்ள பகுதியில் இது நாள் வரையிலும் தகுந்த போலீஸ் பாதுகாப்பு போடப்பட்டு மேற்கொண்டு பிரச்சனை ஏற்படாமல் கண்காணிக்கப்பட்டு வருகிறது. மனுதாரர் கோரியபடி தண்டனை சிறைவாசி ஓட்டக்குளத்தான் என்ற கந்தசாமிக்கு பரோல் விடுப்பு வழங்கி அவருடைய ஊருக்கு வரும்பட்சத்தல் சட்டம் ஒழுங்கு பிரச்சனை ஏற்பட அதிக வாய்ப்புள்ளது. எனவே மேற்படி நபருக்கு பரோல் விடுப்பு வழங்க ஆட்சேபனை தெரிவித்து இந்த அறிக்கை தங்குதலின் மேலான நீதிமன்றத்தில் தாக்கல் செய்யப்படுகிறது.



3. Relying upon this written instructions given by the Superintendent of Police concerned, the learned Additional Public Prosecutor strongly opposed the petition because still there has been police picketing in the village concerned and any untoward may happen between two communities, if the petitioner is permitted to visit the village even for one day on interim bail and therefore, such a move cannot be permitted to by this Court, he contended.

4. We have considered the said submission made by both sides and have perused the materials placed before us.

5. In view of the aforesaid situation, where there would be a further law and order problem created in the locality, in view of the peculiar facts and circumstances narrated in the said instructions given by the Deputy Superintendent of Police concerned dated 23.03.2023, we are not inclined to entertain this petition for grant of any interim suspension of sentence, but, at the same time, since it is the first death anniversary of the son of the petitioner, who is the convict concerned, the concerned Jail Superintendent, Central Prison, Madurai, is directed to permit the wife of the petitioner to see the convict, namely, Ottakulathan @ Kandhasamy, S/o.Karuppiyah either today (24.03.2023) or tomorrow (25.03.2023).

With this direction, this petition is disposed of.

sd/-
24/03/2023

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24/03/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

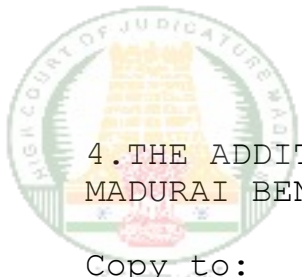
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To

1 THE DEPUTY SUPERINTENDENT OF POLICE,
MANAMADURAI SUB DIVISION,
SIVAGANGAI DISTRICT.

2 THE STATE THROUGH
THE INSPECTOR OF POLICE
PALAYANOOR POLICE STATION,
SIVAGANGAI DISTRICT.

3. THE SUPERINTENDENT,
CENTRAL PRISON,



4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

Copy to:

The Judge,
Special Court for Exclusive Trial of Cases
under SC/ST (POA) Act, 1989,
Sivagangai.

ORDER
IN
CRL MP (MD) No.4806 of 2023
AND
CRL A (MD) No.586 of 2022
Date :24/03/2023

ED/SBN/SAR- (24/03/2023) 4P 6C